



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 21, 1996

Mr. Robert R. Kamm
Legal Counsel
General Services Commission
P.O. Box 13047
Austin, Texas 78711-3047

OR96-1901

Dear Mr. Kamm:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37359.

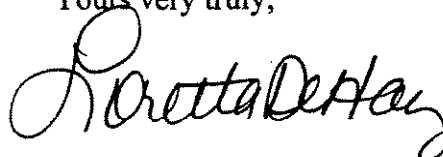
The General Services Commission (the "commission") received a request for information concerning an employee grievance hearing. You contend that the requested information is excepted from required public disclosure under sections 552.101 and 552.103 of the Government Code.

Section 552.103(a), the "litigation exception," excepts from disclosure information relating to litigation to which the state is or may be a party. The commission has the burden of providing relevant facts and documents to show that the section 552.103(a) exception is applicable in a particular situation. The test for meeting this burden is a showing that (1) litigation is pending or reasonably anticipated, and (2) the information at issue is related to that litigation. *Heard v. Houston Post Co.*, 684 S.W.2d 210, 212 (Tex. App.--Houston [1st Dist.] 1984, writ ref'd n.r.e.); Open Records Decision No. 551 (1990) at 4. The commission must meet both prongs of this test for information to be excepted under section 552.103(a).

You state that the requestor has recently filed a lawsuit against the commission. You further state that the requestor has not seen or had access to the requested information. We have reviewed the information submitted to this office and agree that the requested information relates to the pending litigation. You may, therefore, withhold the requested information under section 552.103 of the Government Code. As you resolve this request under section 552.103, we do not address your arguments under section 552.101.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Loretta DeHay". The signature is fluid and cursive, with the first name "Loretta" being more prominent than the last name "DeHay".

Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/rho

Ref: ID# 37359

Enclosures: Submitted documents

cc: Ms. Paula Hawkins
(w/o enclosures)